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# TRANSCRIPT OF RECORD.

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1915.

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No. 880.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

ANGELINE LOMBARDO.

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IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR  
THE WESTERN DISTRICT OF WASHINGTON.

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FILED JANUARY 23, 1916.

(25118)



- 1 In the District Court of the United States for the Western District of Washington, Northern Division.

UNITED STATES OF AMERICA, PLAINTIFF,	} No. 3117.
<i>vs.</i>	
ANGELINE LOMBARDO, DEFENDANT.	

## NAMES AND ADDRESSES OF COUNSEL.

CLAY ALLEN, Esq., U. S. attorney, attorney for plaintiff in error, Room 310, Federal Building, Seattle, Washington.

WINTER S. MARTIN, Esq., assistant U. S. attorney, attorney for plaintiff in error, Room 310, Federal Building, Seattle, Washington.

FRANK H. KELLEY, Esq., attorney for defendant in error, 631 Burke Building, Seattle, Washington.

SAMUEL A. WRIGHT, Esq., attorney for defendant in error, 631 Burke Building, Seattle, Washington.

- 2 United States District Court, Western District of Washington, Northern Division. May Term, 1915. United States of America, plaintiff, vs. Angeline Lombardo, defendant. No. 3117. Indictment.

THE UNITED STATES OF AMERICA,  
*Western District of Washington, Northern Division ss.*

The grand jurors of the United States of America, duly selected, impaneled, sworn, and charged to inquire within and for the Northern Division of the Western District of Washington, upon their oaths present:

That heretofore, to wit, on the seventeenth day of May, A. D. one thousand nine hundred fifteen, at Seattle, in the Northern Division of the Western District of the State of Washington and within the jurisdiction of this court, one Jessie Milos was then and there an alien woman or girl and a citizen and subject of the Kingdom of Great Britain, who had theretofore lately entered the United States from the Dominion of Canada within three years preceding said seventeenth day of May, A. D. one thousand nine hundred fifteen, to wit, that said Jessie Milos had entered the United States as aforesaid in the month of May, A. D. one thousand nine hundred fourteen, and that on the said seventeenth day of May, A. D. one thousand nine hundred fifteen, at the city of Seattle, aforesaid, within said

- 3 district, division, and jurisdiction of this court, one Angeline Lombardo, whose true Christian name is otherwise to these grand jurors unknown, then and there being, and then and there well knowing that said Jessie Milos was then and there an alien woman or girl, as aforesaid, did then and there commence to keep, maintain, control, and harbor the said Jessie Milos in a house or dwelling known as Imperial Hotel, located at 605 Pike Street, in the city of Seattle, aforesaid, within said district and division of this court, aforesaid, for the purposes of prostitution and for other

immoral purposes, and did then and there and thereafter, within thirty days after so commencing to keep, maintain, control, and harbor in said house the said Jessie Milos for the purposes aforesaid unlawfully, knowingly, and wilfully fail to file with the Commissioner General of Immigration a statement in writing setting forth the name of such alien woman or girl, the place at which she is kept, and all the facts as to the date of her entry into the United States, the port through which she entered, her age, nationality, and parentage, and concerning her procurement to come to this country within the knowledge of such person, or any other statement in writing or a statement of any kind giving any facts whatsoever concerning the said Jessie Milos, and that the United States of America and the Kingdom of Great Britain are both parties to that certain agreement or project or arrangement for the suppression of the white-slave traffic adopted July 25, 1902, for the submission to their respective governments by the delegates of the various powers represented at the Paris conference and confirmed by the formal agreement signed at Paris on May 18, 1904, and adhered to by the United States of America on June 6, 1908, as shown by the proclamation of the President of the United States, dated June 15, 1908; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

CLAY ALLEN,  
*United States Attorney.*

WINTER S. MARTIN,  
*Assistant United States Attorney.*

(Indorsed:) The United States vs. Angeline Lombardo. Indictment for violation of section 6 of act of June 25, 1910. A true bill. Alex Dickinson, foreman grand jury. Presented to the court by the foreman of the grand jury in open court, in the presence of the grand jury, and filed in the U. S. District Court, Sep. 28, 1915. Frank L. Crosby, clerk. By S. E. Leitch, deputy.

5

United States of America.

WESTERN DISTRICT OF WASHINGTON, ss:

*The President of the United States to the marshal of the United States of America for the Western District of Washington, his deputies, or any or either of them, greeting:*

Whereas, at a District Court of the United States of America for the Western District of Washington, begun and held at the city of Seattle, within and for the district aforesaid, on the 28th day of September, in the year of our Lord one thousand nine hundred and fifteen, the grand jurors in and for said district returned into the said District Court a true bill of indictment against Angeline Lombardo for violation of section 6 of act of June 25, 1910, as by the said

bill of indictment now remaining on file and of record in said court will more fully appear; to which bill of indictment the said Angeline Lombardo has not yet appeared or pleaded;

Now, therefore, you are hereby commanded, in the name of the President of the United States of America, to apprehend the said Angeline Lombardo and her bring before the said court at the United States District courtroom in the city of Seattle, to answer the bill of indictment aforesaid.

Witness the honorable Jeremiah Neterer, judge of the said District Court, and the seal thereof, at the city of Seattle, this 28th day of September, A. D. 1915.

[SEAL.]

FRANK L. CROSBY, *Clerk.*

By ED M. LAKIN, *Deputy Clerk.*

CLAY ALLEN, Esq.,

*United States District Attorney.*

6 Bail fixed at \$3,000.00.

Attest:

FRANK L. CROSBY, *Clerk.*

By ED M. LAKIN, *Deputy.*

Marshal's Office.

UNITED STATES OF AMERICA,

*Western District of Washington ss:*

In obedience to the within warrant, I have the body of the said Angeline Lombardo before the honorable the District Court of the United States in and for the Western District of Washington, this 7th day of October, A. D. 1915.

JOHN M. BOYLE, *U. S. Marshal.*

By DONALD D. FULLEN, *Deputy U. S. Marshal.*

Bench warrant (Indictment).

(Indorsed:) Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Oct. 8, 1915. Frank L. Crosby, clerk. By E. M. L., deputy.

7 In the District Court of the United States for the Western District of Washington, Northern Division.

UNITED STATES OF AMERICA, PLAINTIFF,

*vs.*

ANGELINE LOMBARDO, DEFENDANT.

No. 3117. Arraignment.

Now on this day into open court comes the said defendant, Angeline Lombardo, for arraignment, accompanied by her attorney, S. A. Wright, the plaintiff appearing by Albert Moodie, assistant district attorney, whereupon the defendant is asked if the name by which she is indicted is her true name and replies, "My true name is

Albino Lombardo." Whereupon the defendant is given until Monday, October 11, 1915, in which to plead.

Dated October 8, 1915.

Journal 5, page 103.

8 United States District Court, Western District of Washington, Northern Division.

UNITED STATES OF AMERICA, PLAINTIFF,

vs.

ALBINO LOMBARDO, DEFENDANT.

No. 3117. Demurrer.

And now comes Albino Lombardo, in her own proper person, into court and, having heard the indictment against her in said cause read, says that the said indictment and the matters therein contained in manner and form as the same are stated and set forth are not sufficient in law, in that:

## I.

Paragraph 6 of the white-slave traffic act (act of June 25, 1910, 36 Statutes at Large 827) is unconstitutional and not within the power of the Congress to enact, in that it contravenes the rights of this defendant, guaranteed to her under the fourth and fifth amendments to the Constitution of the United States, and further for the reason:

## II.

That the above-entitled court, within which said indictment was returned and said prosecution is brought, is without jurisdiction of the subject matter thereof, and said prosecution is in contravention of the rights guaranteed to this defendant by the sixth amendment to the Constitution of the United States.

Wherefore and by reason whereof the said Albino Lombardo is not bound by the law of the land to answer to the said indictment, and this she is ready to verify.

Wherefore, for want of sufficient indictment in this behalf, the said Albino Lombardo prays judgment and that by the  
9 court she may be dismissed and discharged from the premises in the said indictment specified.

SAMUEL A. WRIGHT,  
FRANK H. KELLEY,  
*Attorneys for Defendant.*

UNITED STATES OF AMERICA, WESTERN DISTRICT OF WASHINGTON,  
*State of Washington, County of King, ss:*

Albino Lombardo, being first duly sworn, on her oath says that she is the defendant in the above-entitled cause and that the within and foregoing demurrer is, as she believes, well founded in law and is not interposed for purpose of delay.

ALBINO LOMBARDO.

Subscribed and sworn to before me this 29th day of October, 1915.

[SEAL.]

ELIAS A. WRIGHT,

*Notary Public in and for the State of Washington,  
Residing at Seattle.*

Certificate of Counsel.

We, Samuel A. Wright and Frank H. Kelley, attorneys for the defendant in the above-entitled cause, hereby certify that in our and each of our opinion the within and foregoing demurrer is well founded in point of law.

SAMUEL A. WRIGHT.

FRANK H. KELLEY.

Service of within demurrer and receipt of copy admitted this 29th day of October, 1915.

A. MOODIE,

*Attorney for U. S.*

(Indorsed:) Demurrer. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Oct. 29, 1915. Frank L. Crosby, Clerk. By E. M. L., deputy.

10 United States District Court, Western District of Washington,  
Northern Division.

UNITED STATES OF AMERICA, PLAINTIFF,	} No. 3117.
v.	
ALBINO LOMBARDO, DEFENDANT.	

Filed November 10, 1915.

On demurrer to indictment. Demurrer sustained.

Clay Allen, United States attorney, Winter S. Martin, assistant United States attorney, for Government.

Samuel A. Wright, Frank H. Kelley, for defendant.

NETERER, *District Judge:*

The indictment charges a violation of section 6 of the white-slave-traffic act of June 25, 1910, 36 Stat. at Large, pages 826-827. The sufficiency of the indictment is challenged by demurrer. The defendant contends that by section 6 of the act, *supra*, she is required by statements in writing to incriminate herself under the criminal laws of Washington and is deprived of her protection under the fourth and fifth amendments, and that the saving provision of section 6, *supra*, granting immunity from prosecution under "any law of the United States" is not as broad as the provisions of the amendments and therefore abridges her rights. In this connection it may be said that the laws of Washington make keeping a house of prostitution



an offense punishable by fine and imprisonment (section 2688 and 2440, Rem. & Bal. Codes of Washington). If the defendant was harboring the party charged in the indictment for the purposes of prostitution and she made the statement required by section 6, *supra*, she would be furnishing evidence which could be used against her in the prosecution for a violation of the laws of Washington.

Is the requirement a violation of the fifth amendment, which provides that a party "shall not be compelled in any criminal case to be a witness against himself" (her self)? The immunity granted by section 6 of the act is not as broad as the constitutional provision. *Counselman v. Hitchcock*, 142 U. S., 547. In this case Justice Blatchford said that it was not possible that the meaning of this constitutional provision was limited to a case against the party himself. It seems that the *Counselman* case applies directly to the issue here. Courts must jealously guard the rights guaranteed to accused persons and save to them the constitutional protection. The Supreme Court in *Boyd v. U. S.*, 116 U. S., 616, held the provisions of revenue act of June 22, 1874, repugnant to the fourth amendment, which required a defendant to produce, on motion of the district attorney, his private books and papers in suits for penalties or forfeitures. In *Weeks v. U. S.*, 232 U. S., 383, the court held the protection of the fourth amendment to reach all alike, whether accused of crime or not, and that convictions by means of unlawful seizure or enforced confessions in violation of Federal rights are not to be sanctioned by the courts, which are charged with guarding the constitutional rights, and directed the return of letters seized in violation of the protection given by the fourth amendment, application having been made for such return before trial. The same reason applies to the protection given by the fifth amendment, and to penalize the failure to give a statement which is self-incriminatory is beyond the power of the Congress.

The contention of the Government that *Brown v. Walker*, 161 U. S., 591, is controlling, is not accepted. In the *Brown* case the immunity granted by the act was held as broad as the fifth amendment by the majority of the Supreme Court, and this immunity amendment was passed by Congress after the decision in the *Counselman* case, presumably for the purpose of meeting the objection urged in that case. The minority of the court by a dissenting opinion held the immunity provision not broad enough to meet the provisions of the fifth amendment. The immunity granted by this act is

expressly limited to prosecutions "under the laws of the United States," thus withdrawing the protection granted by the fifth amendment as to prosecutions under the State laws and abridging the protection granted by section 9, art. 1, of the constitution of Washington, which is not in harmony with the privileges and immunities granted to the citizens of the several States and inhibitions placed upon the several States by the Constitution of the United States.



The Supreme Court of Missouri, in *State of Missouri v. Simmons Hardware Co.*, 15 L. R. A., Old Series, 676, considered a similar constitutional provision with relation to the act of the legislature of 1889, "for the punishment of pools, trusts, and conspiracies," which required an officer of every corporation to inform, under oath, the secretary of state, under penalty of fine and imprisonment, concerning its business with relation to said act, which it held to be in conflict with the constitutional provision that "no person shall be compelled to testify against himself in a criminal case."

In *People v. Rosenheimer*, 128 N. Y. Supplement, 1903, the court held unconstitutional a statute making it a felony for the owner of any motor vehicle, with knowledge that an injury had been occasioned by the operator's negligence or accident, to fail to stop and give his name and address and number of license to the injured person, or a police officer, etc., and at page 1096, the court said:

"A similar provision applicable to proceedings in the Federal courts is found in the fifth amendment to the Constitution of the United States."

The State decisions are not controlling in Federal courts and are simply referred to for the purpose of showing the trend of thought of recognized legal minds upon a like issue as here presented. The manifest purpose of the constitutional provisions of the United States and the States is to place the stamp of silence upon parties or witnesses as to self-incriminating statements and to keep inviolate the maxim *nemo tenetur seipsum accusare*. This section, I think, is violative of the express provisions of the fifth amendment. Answering the suggestion of the district attorney that the  
13 privilege is personal and can not be made by another, it is sufficient to say that the record discloses that the right is asserted by the defendant personally in her own behalf.

The second contention of the defendant, that the court has not jurisdiction, must also be sustained. The gist of the offense is the failure "to file with the Commissioner General of Immigration" a statement, etc. By the act of March 3, 1891, chap. 551, sec. 7, page 1085, 26 Stat. at Large, as amended by the act of March 2, 1875, chap. 177, 28 Stat., page 780, the office of the Commissioner of Immigration was created and his office fixed at Washington, D. C. The Government contends that the offense was a continuing one and extended from this district to Washington, D. C., and that the filing of the statement need not be at the office in Washington, but may be deposited in the post office of the United States, addressed to the Commissioner General, and this forwarding through the usual course of mail should be considered as "filing," and that the failure to post within thirty days would commence the offense which would be continuous. This contention can not be reconciled with the language employed in the act. The word "file" was not defined by Congress. No definition having been given, the etymology of the word must be considered and ordinary meaning applied. The word "file" is derived from the Latin word "filum," and relates to the ancient prac-

tice of placing papers on a thread or wire for safe keeping and ready reference. Filing, it must be observed, is not complete until the document is delivered and received. "Shall file" means to deliver to the office and not send through the United States mails, *Gates v. State*, 128 N. Y. Court of Appeals, 221. A paper is filed when it is delivered to the proper official and by him received and filed. *Bouvier Law Dictionary*; *White v. Stark*, 134 Cal., 178; *Westcott v. Eccles*, 3 Utah, 258; in re *Van Varcke*, 94 Fed., 352; *Mutual Life Ins. Co. v. Phiney*, 76 Fed., 618. Anything short of delivery would leave the filing a disputable fact, and that would not be consistent with the spirit of the act.

14 The interstate commerce act of February 4, 1887, chap. 104, sec. 6, 24 Stat., 380, requires the filing of schedules of interstate rates with the Interstate Commerce Commission. The *Elkins Act* of February 19, 1903, chap. 709, sec. 1, 32 Stat., 847, made the willful failure to "file" a misdemeanor, punishable in any Federal court having jurisdiction within the district in which the offense was committed. Section 19 of the act, 24 Stat., 386, provides that the principal office of the commission shall be in the city of Washington, D. C. The defendant was prosecuted in the western district of New York, and the court, in *New York Central & Hudson River Ry. Co. v. U. S.*, 166 Fed., 267, held that "the offense of failing to file the schedule with the commission having been committed in Washington, in the District of Columbia, the court of the western district of New York had no jurisdiction." This decision was accepted by the Department of Justice. It would seem as though this case was upon all fours with the case at bar, this being a stronger case in view of the fact that under the provisions of the interstate commerce act the commission could hold sessions in places other than the place of its principal office.

The offense, if one was committed, was within the District of Columbia, and the defendant has the right, under the sixth amendment, to a public trial within that district.

The demurrer is sustained.

JEREMIAH NETERER, *Judge*.

Opinion on demurrer to indictment. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Nov. 10, 1915. Frank L. Crosby, clerk; by Ed M. Lakin, deputy.

15 United States District Court, Western District of Washington,  
Northern Division.

UNITED STATES OF AMERICA, PLAINTIFF,	} No. 3117.
v.	
ANGELINE LOMBARDO, DEFENDANT.	

*Judgment sustaining demurrer.*

This cause coming on to be heard upon the demurrer of the defendant in the above-entitled cause, and the respective parties and

their counsel having presented their arguments for and against the several contentions raised by the demurrer, and the court being duly advised in the premises, now, therefore, it is

Ordered, adjudged, and decreed that said demurrer be, and the same hereby is, sustained, and the defendant in the above-entitled cause is hereby allowed to go upon her own recognizance to abide the further and final judgment of this court or the mandate of the Supreme Court in the event writ of error is sued out by the United States within thirty days hereafter, as provided by law. In the event a writ of error is not sued out within the time provided by law, said cause shall be dismissed and the defendant discharged from said recognizance.

It is further ordered that bail be exonerated and that the clerk of the above-entitled court pay over to the person or persons entitled thereto all moneys deposited with said clerk for purposes of bail in this said cause.

Done in open court this 11th day of November, A. D. 1915.

JEREMIAH NETERER,  
*United States District Judge.*

16 Plaintiff excepts to the decree and judgment of the court sustaining demurrer in the above-entitled cause and allowing defendant to go upon her recognizance.

Dated this 11th day of November, 1915.

WINTER S. MARTIN,  
*Asst. U. S. Attorney.*

Exception allowed as entered this 11th day of Nov., 1915.

JEREMIAH NETERER, *Judge.*

(Indorsed:) Judgment sustaining demurrer. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Nov. 11, 1915. Frank L. Crosby, clerk; by E. M. L., deputy.

17 United States District Court, Western District of Washington, Northern Division.

UNITED STATES OF AMERICA, PLAINTIFF,	} No. 3117.
v.	
ANGELINE LOMBARDO, DEFENDANT.	

*Petition for writ of error.*

*To the Honorable Jeremiah Neterer, judge of the district court aforesaid:*

Now comes the United States of America, by Clay Allen, United States attorney for the Western District of Washington, and respectfully shows that on the eleventh day of November, A. D. 1915, the District Court sustained the demurrer of the defendant in the above-entitled cause to the indictment filed therein, and on said day

entered its judgment dismissing said cause; and therein certain errors were committed to the prejudice of this plaintiff, the United States of America, all of which will more in detail appear from the assignment of errors which is filed with this petition.

Wherefore, premises considered, the United States of America, the petitioner herein, prays that a writ of error may issue in this behalf out of the Supreme Court of the United States for the correction of errors so complained of, and that a transcript of the record, proceedings, and papers in this cause, duly authenticated,  
18 may be sent to the Supreme Court of the United States.

CLAY ALLEN,  
*United States Attorney.*

WINTER S. MARTIN,  
*Assistant United States Attorney.*

(Indorsed:) Petition for writ of error. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Dec. 7, 1915. Frank L. Crosby, clerk; by Ed M. Lakin, deputy.

19 United States District Court, Western District of Washington,  
Northern Division.

UNITED STATES OF AMERICA, PLAINTIFF,	} No. 3117.
v.	
ANGELINE LOMBARDO, DEFENDANT.	

*Assignment of error.*

*To the District Court of the United States for the Western District of Washington, sitting in the Northern Division:*

The plaintiff, the United States of America, in this cause in connection with its petition for a writ of error makes the following assignment of error which it avers exist.

I.

The court erred in sustaining the demurrer of the defendant in the above-entitled cause.

II.

The court erred in entering its judgment dismissing said cause.

III.

The court erred in its conclusion that it was without jurisdiction to try the above-entitled cause.

IV.

The court erred in holding that section six of the white-slave-traffic act of June 25, 1910, in the last two paragraphs thereof, is unconstitutional for the reason that it compels self-incrimination, in

20 violation of the fifth amendment to the Constitution of the United States, insofar as it attempts to make it an offense to fail to file the statement required under said section.

## V.

The court erred in its conclusion that the fifth amendment to the Constitution of the United States is intended to provide immunity against prosecution by a State for a violation of a State law when the disclosures required are made in pursuance of a Federal law within the power of Congress to enact.

## VI.

The court erred in its conclusion that the guaranty against self-incrimination mentioned in the last preceding assignment of error, if applicable to State court prosecutions, required any further declaration of protection or immunity than those contained in the constitutional provision itself.

## VII.

The court erred in its conclusion that in order to render the fifth amendment to the Constitution effective, as applied to section six, it was necessary that Congress make provision for immunity for the person making the required statement by inserting such immunity clause in the said statute.

## VIII.

21 The court erred in holding and deciding that the offense mentioned and defined in section six of the white-slave-traffic act, to-wit, the failure to file the required statement with the Commissioner General of Immigration within thirty days, was committed at Washington, in the District of Columbia, where the office of said Commissioner General of Immigration of the United States is located.

## IX.

The court erred in holding that the act of filing the statement required by said section six is one which is complete in itself and must be performed in person or by agent at the office of the said Commissioner General at Washington, District of Columbia, and that any failure to so file, which is made an offense, must be prosecuted in the District of Columbia and not within the Western District of Washington, where the defendant in this cause resided and where the act of harboring, et cet. first commenced.

## X.

The court erred in its conclusion that the statement in writing required to be given under section six of the act was such a statement as would necessarily subject the person making it to prosecution for an offense under the laws of the State of Washington.

Wherefore the plaintiff prays that the said errors be corrected and the judgment of the said District Court be reversed.

CLAY ALLEN,

*United States Attorney.*

WINTER S. MARTIN,

*Assistant United States Attorney.*

(Indorsed:) Assignment of errors. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, December 7, 1915. Frank L. Crosby, clerk; by Ed M. Lakin, deputy.

22 United States District Court, Western District of Washington, Northern Division.

UNITED STATES OF AMERICA, PLAINTIFF,	} No. 3117.
v.	
ANGELINE LOMBARDO, DEFENDANT.	

*Order allowing writ of error.*

This seventh day of December, A. D. 1915, comes the plaintiff, United States of America, by Clay Allen, United States attorney for the Western District of Washington, and files herein and presents to the court his petition praying for the allowance of a writ of error from the Supreme Court of the United States to the District Court of the United States for the Western District of Washington, and also an assignment of errors intended to be urged by it, praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the Supreme Court of the United States and that such other and further proceedings may be had as are proper in the premises.

On consideration thereof the court does allow the writ of error without bond.

JEREMIAH NETERER,

*United States District Judge*

*for the Western District of Washington.*

(Indorsed:) Order allowing writ of error. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Dec. 7, 1915. Frank L. Crosby, clerk; by Ed M. Lakin, deputy.



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In the Supreme Court of the United States.

UNITED STATES OF AMERICA, PLAINTIFF IN ERROR,  
*v.*  
 ANGELINE LOMBARDO, DEFENDANT IN ERROR. } No. 3117.

*Writ of error.*THE UNITED STATES OF AMERICA, *ss:*

*To the President of the United States of America, to the judges of the District Court of the United States for the Western District of Washington, greeting:*

Because in the records and proceedings, and also in the rendition of the judgment of a plea which is in the said District Court, before you, between the United States of America, plaintiff, and Angeline Lombardo, defendant, a manifest error has happened, to the great damage of the said United States of America, as by its complaint appears. We being willing that the error, if any has been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you may have the same at the city of Washington on the first day of February next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the honorable Edward D. White, Chief Justice of the United States, the 7th day of December, in the year of our Lord one thousand nine hundred and fifteen and of the Independence of the United States of America one hundred and thirty-nine.

[SEAL.]

FRANK L. CROSBY,

*Clerk of the District Court of the United States  
 for the Western District of Washington.*

Allowed by—

JEREMIAH NETERER,

*United States District Judge, holding the District Court  
 of the United States for the Western District of Wash-  
 ington.*

25 Form No. 282.

*Return on service of writ.*

UNITED STATES OF AMERICA,

*Western District of Washington, ss:*

I hereby certify and return that I served the annexed writ of error on the therein-named Angeline Lombardo, defendant in error,

by handing to and leaving a true and correct copy thereof with Frank H. Kelley, her attorney, personally, at Tacoma, in said district on the 10th day of December, A. D. 1915.

JOHN M. BOYLE, *U. S. Marshal.*

By T. J. FLEETWOOD, *Deputy.*

Marshal's fees, \$2.00.

(Indorsed:) Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Dec. 13, 1915. Frank L. Crosby, clerk; by Ed M. Lakin, deputy.

26 Received a copy of the within writ of error this 10th day of December, 1915.

FRANK H. KELLEY,

*Attorney for Defendant in Error.*

(Indorsed:) In the Supreme Court of the United States. United States of America, plaintiff in error, vs. Angeline Lombardo, defendant in error. Writ of error. Filed in the U. S. District Court Western Dist. of Washington, Northern Division, Dec. 7, 1915. Frank L. Crosby, clerk; by Ed M. Lakin, deputy.

27 In the Supreme Court of the United States.

UNITED STATES OF AMERICA, PLAINTIFF,	} No. 3117.
v.	
ANGELINE LOMBARDO, DEFENDANT.	

*Citation to defendant in error.*

THE UNITED STATES OF AMERICA, ss:

*To Angeline Lombardo, greeting:*

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at the city of Washington on the first day of February, 1916, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for the Western District of Washington, Northern Division, wherein the United States of America is plaintiff and you are the defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in said writ of error mentioned should not be corrected and speedy justice done to the parties in that behalf.

Given under my hand at the city of Seattle, in the division and district above named, this seventh day of December, in the year of our Lord one thousand nine hundred and fifteen.

JEREMIAH NETERER,

*United States District Judge*

*for the Western District of Washington.*

28 Form No. 282.

*Return on service of writ.*

UNITED STATES OF AMERICA,

*Western District of Washington, ss:*

I hereby certify and return that I served the annexed citation to defendant in error on the therein-named Angeline Lombardo, defendant in error, by handing to and leaving a true and correct copy thereof with Frank H. Kelley, her attorney, personally at Tacoma, in said district, on the 10th day of December, A. D. 1915.

JOHN M. BOYLE, *U. S. Marshal.*By T. J. FLEETWOOD, *Deputy.*

Marshal's fees, \$2.12.

Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Dec. 13, 1915. Frank L. Crosby, clerk, by Ed M. Lakin, deputy.

29 Received a copy of the within citation in error this 10th day of December, 1915.

FRANK H. KELLEY,

*Attorney for Defendant in Error.*

(Indorsed:) In the Supreme Court of the United States. United States of America, plaintiff, vs. Angeline Lombardo, defendant. Citation to defendant in error. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Dec. 7, 1915. Frank L. Crosby, clerk, by Ed M. Lakin, deputy.

30 United States District Court, Western District of Washington, Northern Division.

UNITED STATES OF AMERICA, PLAINTIFF,

v.

ANGELINE LOMBARDO, DEFENDANT.

} No. 3117. Stipulation.

It is hereby stipulated by and between the parties hereto, through their respective attorneys, that the following designated papers, together with the original citation, the original writ of error, comprise all the papers, documents, and other proceedings which are necessary to the hearing of the said cause upon writ of error in the United States Supreme Court, and that only such papers need be included in the record of said court, to-wit:

1. Indictment with all endorsements thereon, with file marks, etc.
2. Bench warrant and marshal's return thereon, with file marks, etc.
- 3.
4. Journal entry of defendant's arraignment.

5. Demurrer with endorsements.
  6. Opinion sustaining demurrer.
  7. Judgment on demurrer.
  8. Petition for writ of error.
  9. Assignment of errors.
  10. Order allowing writ of error.
    11. Writ of error with endorsements.
    12. Citation in error.
    13. Marshal's return of service of citation in error.
  14. Marshal's return of service of copy of writ of error.
  15. Stipulation of counsel as to the record.
- Witness our hands this 14th day of December, A. D. 1915.

CLAY ALLEN.

*United States Attorney, for Plaintiff in Error.*

WINTER S. MARTIN.

*Assistant United States Attorney, for Plaintiff in Error.*

SAM. A. WRIGHT.

F. H. KELLEY,

*Attorneys for Defendant in Error.*

(Indorsed:) Stipulation. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Dec. 14, 1915. Frank L. Crosby, clerk, by Ed M. Lakin, deputy.

- 32 United States District Court, Western District of Washington,  
Northern Division.

UNITED STATES OF AMERICA, PLAINTIFF,)

28.

ANGELINE LOMBARDO, DEFENDANT.

No. 3117.

*Praecipe for record.*

*To the clerk of the above-entitled court:*

You will please prepare transcript of the record in the above-entitled cause, to be heard on writ of error to the Supreme Court of the United States, which said transcript of record in said cause shall contain true copies of the following documents and papers filed in said above cause, to wit:

1. Indictment, with all indorsements thereon, with file marks, etc.
2. Bench warrant and marshal's return thereon, with file marks, etc.
3. Journal entry of defendant's arraignment.
4. Demurrer with indorsements.
5. Opinion sustaining demurrer.
6. Judgment on demurrer.
7. Petition for writ of error.
8. Assignment of errors.
9. Order allowing writ of error.

10. Writ of error with indorsements.
11. Citation in error.
12. Marshal's return of service of citation in error.
13. Marshal's return of service of copy of writ of error.
14. Stipulation of counsel as to the record.

In all of the documents, all file marks and indorsements appearing thereon.

Said record to be duly authenticated and certified under the seal of court as in such cases provided under the statutes and rules of court.

Dated at Seattle, Washington, this 14th day of December, A. D. 1915.

CLAY ALLEN,  
*United States Attorney for Plaintiff in Error.*

WINTER S. MARTIN,  
*Assistant United States Attorney for Plaintiff in Error.*

Received a copy of the within praecipe for record this 14th day of Dec., 1915.

SAM. A. WRIGHT,  
F. H. KELLEY,  
*Attorney for Deft. in Error.*

Received a copy of the within 14th day of Dec., 1915.

SAM. A. WRIGHT,  
F. H. KELLEY,  
*Attorney for Deft.*

(Indorsed:) Praecipe for record. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Dec. 14, 1915. Frank L. Crosby, Clerk, by Ed M. Lakin, Deputy.

- 34 In the District Court of the United States for the Western District of Washington, Northern Division.

UNITED STATES OF AMERICA, PLAINTIFF,	} No. 3117.
vs.	
ANGELINE LOMBARDO, DEFENDANT.	

*Certificate of clerk U. S. District Court to transcript of record, etc.*

UNITED STATES OF AMERICA,

*Western District of Washington, ss:*

I, Frank L. Crosby, clerk of the United States District Court for the Western District of Washington, do hereby certify the foregoing typewritten pages numbered from 1 to 33, inclusive, to be a full, true, correct, and complete copy of so much of the record, papers, and other proceedings in the above and foregoing entitled cause as are necessary to the hearing of said cause on writ of error therein in the Supreme Court of the United States, and as is stipulated for by counsel of record herein, as the same remain of record and on file in the office of the clerk of said District Court and that the same

constitute the record on return to said writ of error herein from the judgment of said United States District Court for the Western District of Washington to the Supreme Court of the United States.

I further certify the following to be a full, true, and correct statement of all expenses, costs, fees, and charges incurred by plaintiff in error for making record, certificate, or return to the Supreme

Court of the United States in the above-entitled cause  
 35 chargeable to the United States, and that the following sum will be included in my account against the United States for clerk's fees for the quarter ending March 31, 1916:

Clerk's fee (sec. 828 R. S. U. S.) for making record, certificate, or return—62 folios at 15c.....	\$9. 30
Certificate of clerk to transcript, 4 fos. at 15c.....	. 60
Seal to said certificate.....	. 20
	<hr/> \$10. 10

I further certify that I hereto attach and herewith transmit the original writ of error and original citation issued in this cause.

In witness whereof I have hereto set my hand and affixed the seal of this District Court at Seattle, in said district, this 13th day of January, 1915.

[SEAL.]

FRANK L. CROSBY,  
 Clerk U. S. District Court.

36 In the Supreme Court of the United States.

UNITED STATES OF AMERICA, PLAINTIFF IN ERROR,	} No. 3117.
v.	
ANGELINE LOMBARDO, DEFENDANT IN ERROR.	

*Writ of error.*

THE UNITED STATES OF AMERICA, ss:

*The President of the United States of America to the judges of the District Court of the United States for the Western District of Washington, greeting:*

Because in the records and proceedings, and also in the rendition of the judgment of a plea which is in the said District Court, before you, between the United States of America, plaintiff, and Angeline Lombardo, defendant, a manifest error has happened, to the great damage of the said United States of America, as by its complaint appears. We being willing that the error, if any has been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you may have the same at the city of Washington  
 37 on the first day of February next, in the said Supreme Court,



to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the honorable Edward D. White, Chief Justice of the United States, the 7th day of December, in the year of our Lord one thousand nine hundred and fifteen, and of the independence of the United States of America one hundred and thirty-nine.

[SEAL.]

FRANK K. CROSBY,

*Clerk of the District Court of the United States  
for the Western District of Washington.*

Allowed by—

JEREMIAH NETERER,

*United States District Judge, holding the District Court  
of the United States for the Western District of Washington.*

38 Form No. 282.

*Return on service of writ.*

UNITED STATES OF AMERICA,

*Western District of Wash., ss:*

I hereby certify and return that I served the annexed writ of error on the therein-named Angeline Lombardo, defendant in error, by handing to and leaving a true and correct copy thereof with Frank H. Kelley, her attorney, personally, at Tacoma, in said district on the 10th day of December, A. D. 1915.

JOHN M. BOYLE, *U. S. Marshal,*  
By T. J. FLEETWOOD, *Deputy.*

Marshal's fees, \$2.00.

Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Dec. 13, 1915. Frank L. Crosby, clerk; by Ed M. Lakin, deputy.

Received a copy of the within writ of error this 10th day of December, 1915.

FRANK H. KELLEY,  
*Attorney for Defendant in Error.*

(Original.) In the Supreme Court of the United States. United States of America, plaintiff in error, v. Angeline Lombardo, defendant in error. Writ of error. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Dec. 7, 1915. Frank L. Crosby, clerk; by Ed M. Lakin, deputy. U. S. Marshal's Civil Docket No. 5239.

In the Supreme Court of the United States.

UNITED STATES OF AMERICA, PLAINTIFF,	} No. 3117.
v.	
ANGELINE LOMBARDO, DEFENDANT.	

*Citation to defendant in error.*

THE UNITED STATES OF AMERICA, ss.

*To Angeline Lombardo, greeting:*

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at the city of Washington, on the first day of February, 1916, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for the Western District of Washington, Northern Division, wherein the United States of America is plaintiff and you are the defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in said writ of error mentioned should not be corrected and speedy justice done to the parties in that behalf.

Given under my hand at the city of Seattle, in the division and district above named, this seventh day of December, in the year of our Lord one thousand nine hundred and fifteen.

JEREMIAH NETERER,  
*United States District Judge*  
*for the Western District of Washington.*

40 Form No. 282.

*Return on service of writ.*

UNITED STATES OF AMERICA,

*Western District of Washington, ss:*

I hereby certify and return that I served the annexed citation to defendant in error on the therein-named Angeline Lombardo, defendant in error, by handing to and leaving a true and correct copy thereof with Frank H. Kelley, her attorney, personally, at Tacoma, in said district on the 10th day of December, A. D. 1915.

JOHN M. BOYLE, *U. S. Marshal,*  
 By T. J. FLEETWOOD, *Deputy.*

Marshal's fees, \$2.12.

Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Dec. 13, 1915. Frank L. Crosby, clerk, by Ed M. Lakin, deputy.

(Indorsement on cover:) File No. 25,113. W. Washington, D. C. U. S. Term No. 830. The United States, plaintiff in error, vs. Angeline Lombardo. Filed January 28th, 1916. File No. 25,113.

# In the Supreme Court of the United States.

OCTOBER TERM, 1915.

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UNITED STATES, PLAINTIFF IN ERROR,	} No. 830.
v.	
ANGELINE LOMBARDO.	

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*IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF WASHINGTON.*

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## **MOTION BY THE UNITED STATES TO ADVANCE.**

Comes now the Solicitor General and in accordance with the Criminal Appeals Act, 34 Stat. 1246, moves the court to advance the above-entitled cause for hearing on a day convenient to the court.

Defendant was indicted in the District Court of the United States for the Western District of Washington for failure to file with the Commissioner General of Immigration at Washington, D. C., a statement concerning one Jessie Milos, an alien woman, whom said defendant was harboring and keeping in a house in the city of Seattle, Washington, for the purposes of prostitution, within thirty days after defendant had commenced to so harbor and keep said alien woman, in violation of section 6 of the Act of June 25, 1910, known as the "White Slave Traffic Act."

A demurrer to the indictment was sustained, the District Court holding:

1. That section 6 violates the Fifth Amendment to the Constitution in that it requires the defendant to furnish statements in writing which, if furnished, would incriminate her under the laws of the State of Washington.

2. That a violation of said section can only be committed in the District of Columbia where the statements are required to be filed.

Notice of this motion has been served on opposing counsel.

JOHN W. DAVIS,  
*Solicitor General.*

JANUARY, 1916.

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